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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/605,788

10/27/2003

Aaron L. Mills

81084431

2787

77327 7590 12/09/2009  
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EXAMINER

MANCHO, RONNIE M

ART UNIT

PAPER NUMBER

3664

NOTIFICATION DATE

DELIVERY MODE

12/09/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/605,788	<b>Applicant(s)</b> MILLS ET AL.	
	<b>Examiner</b> RONNIE MANCHO	<b>Art Unit</b> 3664	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 4,5,13-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 11-3, 6-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Amended claim 1 calls for “replacing manufacturer pre-coded settings”. There is no support for the limitation replacing” in the original disclosure. Instead, the original disclosure calls for updated vehicle settings (applicant’s specification dated 10/27/03 at section 0023, 0027, etc).

This is new matter.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1-3, 6-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Samukawa et al (2002/0003489) in view of Wolfe (2005/0228551).

Regarding claim 1, Samukawa (abstract, figs. 1-5, 7, sections 0048-0051) disclose a wireless vehicle communication update system (steps S32, S33, fig. 5; steps S322, S323, fig. 7) for a vehicle comprising:

an automotive vehicle comprising a vehicle central processing unit 3 (fig. 1), said vehicle central processing unit containing manufacturer pre-coded settings contained within, said manufacturer pre-coded settings (figs. 5, 7; sec. 0078-0080) including engine control pre-coded settings (sec. 0048-0051, see vehicle speed calculation unit, throttle driver unit, etc they are pre-set or predetermined);

a vision sensor 5 (laser sensor, sec. 0048) coupled to said automotive vehicle and wirelessly detecting a vehicle information signal from an off-board vehicle setting update device (object, sec. 0048); and

a vehicle controller 3 (*fig. 1, the controller is a portion of the central processing unit, see applicants sec. 0026*) comprising logic configured to update (figs. 5, 7; sec. 0078-0080) said vehicle central processing unit 3 by replacing said manufacturer pre-coded settings (*i.e. at least one setting selected from the group of software setting, system configuration, performance setting, or safety setting of the vehicle; sec 0048-0051*) in response to said vehicle information signal.

Samukawa disclose the system above, but did not mention a vehicle under production.

However, Wolfe (abstract, fig. 1; sec. 0014-0019) teaches of a vehicle under production, wherein vision systems are tested before installation in a vehicle. Therefore, it would have been

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obvious to one skilled in the art to modify Samukawa as taught by Wolfe for the purpose of testing the Samukawa vision system when the vehicle is under production before the system is actually used on a road.

It is further noted that applicant admits in the specification that during production of a vehicle, vehicle settings and configurations are enabled to satisfy customer preference and other requirements; applicant's specification section 004. Therefore, the prior art vehicle must have gone through a vehicle production line.

Regarding claim 2, Samukawa (abstract, figs. 1-5, 7, sections 0048-0051) disclose the system as in claim 1 wherein said vision sensor comprises at least one vision sensor selected from a camera, a charged-coupled device (section 0035).

Regarding claim 3, Samukawa (abstract, figs. 1-5, 7, sections 0048-0051) disclose the system as in claim 1 wherein said vision sensor detects said vehicle information signal from a passive off-board vehicle setting update device.

Regarding claim 6, Samukawa (abstract, figs. 1-5, 7, sections 0048-0051) disclose the system as in claim 1 wherein said vision sensor detects said vehicle information signal from an off-board vehicle setting update system.

Regarding claim 7, Samukawa (abstract, figs. 1-5, 7, sections 0048-0051) disclose the system as in claim 6 wherein said off-board vehicle setting update system comprises:

- a transmitter transmitting (fig. 1) said vehicle information signal in response to a pulse-coded signal (see echo beam, sec 0050);

- a signal generator generating said pulse-coded signal (transmitting and receiving portion 5, sec. 0048); and

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an update controller 3 (figs. 1, 5, 7) determining said at least one manufacturer pre-coded settings (*i.e. at least one vehicle setting selected from the group of software setting, system configuration, performance setting, or safety setting of the vehicle; sec 0048-0051*) to update and causing generation and transmission of said pulse-coded signal and said vehicle information signal in response to said at least one manufacturer pre-coded settings (sections 0048-0051, 0078-0080).

Regarding claim 8, Samukawa (abstract, figs. 1-5, 7, sections 0048-0051) disclose the system as in claim 1 further comprising:

a signal processor receiving and formatting said vehicle information signal for said vehicle controller, said vehicle controller updating said at least one manufacturer pre-coded settings (*i.e. at least one vehicle setting selected from the group of software setting, system configuration, performance setting, or safety setting of the vehicle; sec 0048-0051*) in said formatted vehicle information signal response to said formatted vehicle information signal (sections 0048-0051, 0078-0080).

Regarding claim 9, Samukawa (abstract, figs. 1-5, 7, sections 0048-0051) disclose the system as in claim 1 wherein said controller in updating said at least one setting comprises adjusting at least one manufacturer pre-coded settings (*i.e. at least one vehicle setting selected from the group of software setting, system configuration, performance setting, or safety setting of the vehicle; sec 0048-0051*) selected from a memory setting (sections 0048-0051, 0078-0080).

Regarding claim 10, Samukawa (abstract, figs. 1-5, 7, sections 0048-0051) disclose the system of claim 1, wherein said controller in updating said at least one manufacturer pre-coded

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settings updates a manufacturer pre-coded settings (*i.e. at least one vehicle setting selected from the group of software setting, system configuration, performance setting, or safety setting of the vehicle; sec 0048-0051*) selected from at least one of a vehicle performance setting, a vehicle safety setting, a vehicle software setting, system configuration, or an audio setting in response to said vehicle information signal (sec. 0048-0051).

Regarding claim 11, Samukawa (abstract, figs. 1-5, 7, sections 0048-0051) disclose the system as in claim 1 further comprising an indicator 17, 13 (fig. 2) coupled to said vehicle controller and indicating at least one manufacturer pre-coded settings (*i.e. at least one vehicle setting selected from the group of software setting, system configuration, performance setting, or safety setting of the vehicle; sec 0048-0051, 0078-0080*).

Regarding claim 12, Samukawa (abstract, figs. 1-5, 7, sections 0048-0051) disclose the system as in claim 1 further comprising an indicator coupled to said vehicle controller and indicating when said vehicle information signal is received (sections 0048-0051, 0078-0080).

### ***Response to Arguments***

5. Applicant's arguments filed 8/18/09 have been fully considered but they are not persuasive.

The 112 first rejection directed to “manufacturer inaccessible engine presets” has been vacated. However, there is a new 112 first rejection in view of the new matter "replacing".

The 112 second rejection to claim 7 has been vacated.

Applicant argues that the prior art does not disclose the unique aspects of the invention. In particular that the prior art does not disclose “replacing the manufacturer pre-coded settings”.

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The argument is not persuasive since applicant has not possession of the claimed subject matter.

As further noted, the prior art anticipate the claim limitations as taught in applicant's specification. Applicant argues that the prior art does not disclose "detecting a vehicle information signal from an off-board setting update device". The examiner disagrees and notes that the prior art anticipates the limitation in view of applicant's disclosure. Applicant's disclosure and drawings define an "off-board setting update device" to encompass a signal transmitter or reflector which transmits a signal or reflects a signal to a vehicle. The signal is received by the vehicle and utilized to update a vehicle setting. The vehicle setting as defined by applicant encompasses a system configuration setting, a performance setting, a safety setting, etc. In a similar manner, the prior art Samukawa et al disclose, "a vision sensor 5 (laser sensor, sec. 0048) coupling a vehicle body of the vehicle and wirelessly detecting a vehicle information signal from an off-board vehicle setting update device (object, sec. 0048) having setting information for the vehicle; and

a vehicle controller 3 (fig. 1) comprising logic to update (figs. 5, 7; sec. 0078-0080) at least one setting selected from the group of software setting, system configuration, performance setting, or safety setting of the vehicle in response to said vehicle information signal (sec. 0048-0051)". Thus the prior art anticipates the claims.

Applicant further argues that, "a vehicle setting is as defined in the industry as a temporary permanent setting that remains constant but may be altered by the automotive company or consumer". The examiner disagrees and notes that applicant does not provide any documentation to support the assertion. In addition the definition is contradictory in the sense the terms "temporary" and "permanent" used in the above definition are mutually exclusive.



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Applicant's makes the above argument but does not explain why an on-coming vehicle is not an off-board vehicle setting update system within the bounds of the disclosure. In addition, applicant's makes the above argument but does not explain why temporarily altering the brakes or throttle is not equivalent to altering a vehicle setting as defined by the specification.

Applicant further argues that Wolfe does not disclose or teach updating a vehicle under production as claimed. The examiner disagrees for the same reasoning cited above. Applicant does not explain why? However, the examiner notes that Wolfe (abstract, fig. 1; sec. 0014-0019) teaches of a vehicle under production, wherein vision systems are tested before installation in a vehicle. Therefore, it would have been obvious to one skilled in the art to modify Samukawa as taught by Wolfe for the purpose of testing the Samukawa vision system when the vehicle is under production before the system is actually used on a road.

It is further noted that applicant admits in the specification that during production of a vehicle, vehicle settings and configurations are enabled to satisfy customer preference and other requirements; applicant's specification section 004. Therefore, the prior art vehicle must have gone through a vehicle production line.

It is believed that the rejections are proper and thus stand.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

#### *Communication*

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to RONNIE MANCHO whose telephone number is (571)272-6984. The examiner can normally be reached on Mon-Thurs: 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tran Khoi can be reached on 571-272-6919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ronnie Mancho/  
Examiner, Art Unit 3664

/KHOI TRAN/

Supervisory Patent Examiner, Art Unit 3664